

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:09cr58-DCB-JCS

JIMMY GATHRITE a/k/a "Cheatta", et al.

ORDER GRANTING MOTION FOR CONTINUANCE

This cause is before the Court on the defendant's Motion for Continuance [docket entry no. 43] and Amended Motion for Continuance [docket entry no. 44]. Said motion is unopposed by the government. The Court, having considered the request, finds and orders as follows:

Having duly considered the factors articulated in Title 18, United States Code, Section 3161(h) to determine the appropriateness of a continuance, the Court finds that, due to defense counsel having another trial scheduled in State Court on the same day this matter is scheduled for trial, the ends of justice outweigh the best interests of the public and the defendant in a speedy trial in this cause and are best served by granting the requested continuance. In granting this continuance, the Court is fully aware that there has already been one brief continuance to allow for review of supplemental discovery provided to defense counsel by the government. The Court also recognizes the importance of a prompt resolution of this matter but finds that

without such continuance, the defendant would not have the benefit of his counsel at trial, which may result in a "miscarriage of justice." 18 U.S.C. § 3161(h)(7)(B)(i) (2009).

The Court further finds that the defendant has specifically waived any speedy trial objections heretofore arising or which may arise under the Speedy Trial Act or the United States Constitution as a result of this requested continuance. Accordingly,

IT IS HEREBY ORDERED that the defendant's request for continuance is **GRANTED**.

IT IS FURTHER ORDERED that this matter be reset for trial commencing on December 1, 2009, at 9:00 a.m. and that the period of delay resulting from this continuance shall be excluded in computing the time within which the trial of this matter must commence in accordance with the Speedy Trial Act, 18 U.S.C. § 3161.

SO ORDERED, this the 28th day of October 2009.

s/ David Bramlette

UNITED STATES DISTRICT JUDGE